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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,738	03/04/2005	Jared S Timko	22188/06985	7877
24024	7590	06/09/2006		
CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114			EXAMINER BASTIANELLI, JOHN	
			ART UNIT 3751	PAPER NUMBER

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/526,738

Applicant(s)

TIMKO ET AL.

Examiner

John Bastianelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 35-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/13/05</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Numbering***

1. The claim numbering appears to be wrong as claims 1-37 are filed March 4, 2005 and then only claims 1-34 are cancelled and claims 35-59 filed October 3, 2005. It appears that applicant meant to cancel claims 1-37 and the claims filed are to be claims 38-62. Also, in the heading the application # is listed as 10/527,738 which is supposed to be 10/526,738.

### ***Claim Objections***

2. Claims 46 and 59 are objected to because of the following informalities: In claim 46, the valve element is already cited as having a ball and then a non-spherical valve element is cited. This appears to be contradictory. In claim 59, said polymer is claim 58, not claim 35. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 35, 40-41, 46, 50-51, 54-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartmann US 3,214,135.

Hartmann discloses a valve having a valve body having a valve cavity therein (Fig. 1), a valve element 5 for controlling flow through the valve based on rotational position of the valve

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element about an axis, and a packing 15 and 16 that surrounds said valve element and seals said valve element within said valve cavity; wherein said valve element comprises a ball 5 and adjacent upper 7 and lower 6 trunnions; said lower trunnion 6 extending axially past a lower end of said packing, said valve cavity being dimensioned to closely receive said valve element while permitting said valve element to axially shift to compensate for temperature effects on said packing (the valve cavity is big enough to compensate for temperature effects so this is seen as inherent). The ball has an outer diameter D1 and the trunnions have an outer diameter D3 with a ratio of D3/D1 is seen to be about .8. The valve element is seen as non-spherical. The valve cavity has a reduced diameter bore that receives the lower trunnion and prevents packing material from creeping.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 36-39, 42-45, 47-49, 52-53, and 58-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartmann US 3,214,135 in view of Tow US 5,730,420.

Hartmann lacks the packing being a single piece made out of PTFE. Tow discloses a single piece packing 50 made out of PTFE (Teflon is PTFE). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the packing of Hartman out of a single piece as disclosed by Tow in order to provide one less assembly step and since it has

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been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893). The claim language dimensioned to be installed within a room temperature range of 65-100 degrees F is seen as inherent. The packing has a generally cylindrical outer surface with a height H and an outer diameter D4 with a ratio of H/D4 is seen to be about .8. The packing has an inner surface that forms an interference fit with said valve element prior to loading the packing into the valve body. The packing is overmolded to the ball valve.

7. Claim 36-39, 42-45, 47-49, 52, and 57-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartmann US 3,214,135 in view of Soria Vega US 5,595,206.

Hartmann lacks the packing being a single piece made out of PTFE or polyethylene. Soria Vega discloses a single piece packing 50 made out of PTFE or polyethylene. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the packing of Hartman out of a single piece as disclosed by Soria Vega in order to provide one less assembly step and since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893). The claim language dimensioned to be installed within a room temperature range of 65-100 degrees F is seen as inherent. The packing has a generally cylindrical outer surface with a height H and an outer diameter D4 with a ratio of H/D4 is seen to be about .8. The packing has an inner surface that forms an interference fit with said valve element prior to loading the packing into the valve body. Hartmann lacks the packing being live loaded. Soria Vega discloses the packing being live loaded 48. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the

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packing of Hartmann live loaded as disclosed by Soria Vega in order to keep the packing biased against the ball valve to prevent leakage.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dupont, Bialkowski, Hartmann and Adams disclose trunnions with the lower extending axially past a lower end of the packing. Ludwig, Abe, Albanese, and Andersen disclose single piece packings surrounding the ball valve. Gonsior, Iff, Mese, Scaramucci, Clark, and Buchholz disclose packings surrounding the ball. Landschoot and Iff disclose overmolding.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Bastianelli whose telephone number is (571) 272-4921. The examiner can normally be reached on M-F (9:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John Bastianelli  
Primary Examiner  
Art Unit 3751



JB

June 7, 2006